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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,168

11/20/2003

Peter F. Symosek

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7590

11/01/2006

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EXAMINER

GEBRESILASSIE, KIBROM K

ART UNIT

PAPER NUMBER

2128

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,168	<b>Applicant(s)</b> SYMOSEK ET AL.	
	<b>Examiner</b> Kibrom K. Gebresilassie	<b>Art Unit</b> 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-22 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office communication is in response to applicant's communication filed on 20 November 2003.

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- a. Claims 1-4, drawn to signature simulator comprises a ground truth tool and a simulation model which comprising: a first and a second input of system performance requirements, and output, classified in class 702, subclass 182.
- b. Claims 5-6, drawn to a simulation system comprising a sensor response removal module, a sensor response source, a sensor response addition module, classified in class 422, subclass 105.
- c. Claims 7-9, drawn to simulator system comprising a chemical agent detection environment simulation device, classified in class 703, subclass 12.
- d. Claims 10-13, drawn to a simulation method that computing parameters of a plurality of parameters of spectrum, classified in class 703, subclass 2.
- e. Claims 14-18, drawn to a system for simulation comprising a synthesizer connected to the atmospheric simulation module, classified in class 327, subclass 105.
- f. Claims 19-22, drawn to a simulation method that calibrating a background spectrum, classified in class 702, subclass 85.

The inventions are distinct, each from the other because of the following reasons:

Inventions a, b, c, d, e, and f are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP ~ 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a signature simulator does not require the particular features claimed by group b, c, d, e, and f as evidenced by their exclusion from group a and vice versa. The subcombination has separate utility such as a sensor, a chemical agent detection environment simulation device, calibration stage, and synthesizer.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP ~ 808.02), restriction for examination purposes as indicated is proper. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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**Conclusion**


A shortened statutory period for reply to this communication is set to expire ONE MONTH (30 DAYS) from the mailing date of this action.

Any inquiring concerning this communication or earlier communication from the examiner should be directed to Kibrom K. Gebresilassie whose telephone number is (571) 272-8571. The examiner can normally be reached on Monday-Friday, 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Kamini shah can be reached at (571) 272-2279. The official fax number is (571) 273-8300. Any inquiring of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is (571) 272-3700.

Kibrom Gebresilassie

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KAMINI SHAH  
SUPERVISORY PATENT EXAMINER